

**STATEMENT OF BASIS AND PURPOSE AND STATEMENT OF EMERGENCY
FOR AMENDMENT OF THE DEPARTMENT OF PERSONNEL AND
ADMINISTRATION**

Division of Risk Management

1 CCR 105-1

The Executive Director's authority to adopt risk management rules is provided by section 24-30-1505 C.R.S (2003).

Pursuant to section 24-4-103(6), C.R.S. (2003), the Executive Director finds that immediate adoption of the rule is imperatively necessary to comply with House Bill 04-1009 and for the preservation of public health, safety, or welfare, and that compliance with the requirements of section 24-4-103, C.R.S. (2003) would be contrary to the public interest.

In 1985 the general assembly created the Division of Risk Management charged with providing general liability, automobile liability, workers' compensation and property insurance services for state properties and state employees. At the present, except for the University of Colorado systems (CU systems), all state agencies and institutions of higher education are included under Risk Management's three funds (liability, property and worker's compensation), and receive loss control services under the auspices of those programs.

House Bill 04 1009 allows institutions of higher education to opt out of the entire Risk Management program (property, liability and workers' compensation) effective July 1, 2004. The statutes in HB 04-1009 are not self-executing and require administrative construction due to inadequate lead times for the Executive Director of the Department of Personnel & Administration to discharge his duty to protect the integrity of the funds and associated risk pools, as well to ensure assessments to higher education are based on actuarially sound analyses in accordance with C.R.S. 24-30-1503.3. The permanent rulemaking process does not afford sufficient time to comply given the July 1, 2004 effective date of House Bill 04-1009. Further, given the risk management allocation process that enables the Executive Director to effectively implement his statutory duties, the Department of Personnel & Administration must determine all state agencies' and other higher education institutions' allocations at least 12 months prior to the start of the fiscal year for which the budget and associated allocations are effective. In order to ensure an orderly process consistent with budgetary and appropriation requirements while ensuring that the state will have sufficient funding for the Risk Management Program, emergency rules are necessary to give notice of the exact process to be followed in opting out of the Risk Management Program. Advance notice shall be given to institutions of higher education and the Colorado Commission on Higher Education.

Pursuant to section 24-4-103(4)(b), C.R.S. (2003), the Executive Director also finds that: (1) there is a demonstrated need for the rule; (2) the proper statutory authority exists for the rule; (3) to the extent practicable, the rule is clearly and simply stated so that its meaning will be understood by any party required to comply with the rule; (4) the rules does not conflict with other provisions of law, and (5) any duplication or overlap of regulations has been explained by the agency.

Adopted on August 23, 2004, this rule shall be effective on August 23, 2004.

Jeffrey M. Wells
Executive Director